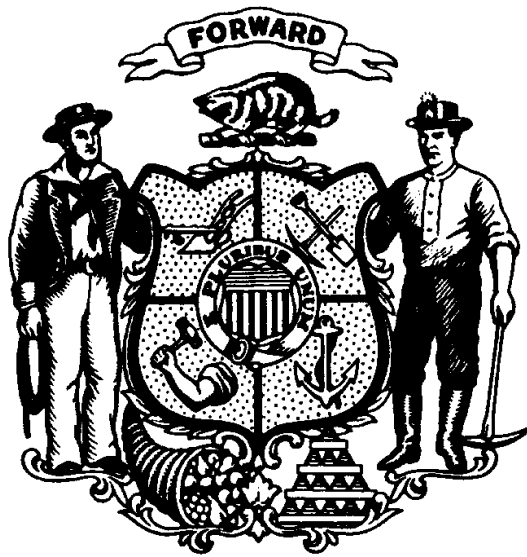


WISCONSIN ADMINISTRATIVE REGISTER

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EMERGENCY RULES NOW IN EFFECT

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

EMERGENCY RULES NOW IN EFFECT (2)

Agriculture, Trade & Consumer Protection

1. Rules were adopted amending s. ATCP 60.19 (3) and (4), relating to drug residues in raw milk.

Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection (DATCP) finds that an emergency exists and that the following emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

(1) Milk from Wisconsin dairy farms may not contain drug residues. Current rules under ch. ATCP 60, Wis. Adm. Code, require every dairy plant operator to perform a drug residue screening test on every bulk load of raw milk received by that operator. If the bulk load tests positive for any drug residue, the operator must test a milk sample from each producer milk shipment included in that bulk load. Current rules do not require a dairy plant operator to perform a confirmatory test if a producer sample tests positive on an initial test.

(2) If a producer sample tests positive for drug residue, the dairy plant operator may hold that producer financially responsible for contaminating the bulk load. In some cases, the cost of a contaminated tanker load of milk may be \$5,000 or more. The department may also take enforcement action against the milk producer. Enforcement may result in financial penalties or suspension of the milk producer's license.

(3) In several enforcement actions, producers have argued that dairy plant drug residue tests were inaccurate. Producers claimed that there was no confirmatory testing, and no opportunity to confirm the accuracy of the dairy plant operator's test findings. Inaccurate findings may unfairly penalize affected producers, and result in severe financial losses to those producers. The lack of a confirmatory test aggravates conflicts between dairy plant operators and milk producers.

(4) Confirmatory testing of test-positive producer samples would provide greater assurance of fairness for milk producers, and would help avoid conflicts between dairy plant operators and producers. Dairy plant operators can perform confirmatory tests at reasonable cost. An emergency rule requiring confirmatory testing of producer samples is necessary to protect milk producers, and to promote the efficient operation and economic well-being of Wisconsin's dairy industry.

(5) Confirmatory testing of test-positive producer samples will enhance, and not reduce, the safety of Wisconsin milk supplies. Dairy plant operators will still be required to test bulk tanker loads of milk, and dispose of tanker loads that test positive for drug residues.

(6) This emergency rule will strengthen public health protection by requiring dairy plant operators to dispose of contaminated loads, or denature contaminated loads before transferring them to the custody of another person. Denaturing ensures that persons receiving custody of contaminated loads will not redirect them to human food use.

(7) Pending the adoption of rules according to normal administrative rulemaking procedures, it is necessary to adopt this emergency rule to do both of the following:

(a) Protect the public milk supply against drug residue contamination by assuring proper disposal of contaminated milk.

(b) Provide additional assurance that milk producers will not be subjected to serious penalties or financial losses based on inaccurate drug residue tests.

Publication Date:	April 30, 1999
Effective Date:	April 30, 1999
Expiration Date:	September 27, 1999
Hearing Date:	June 18, 1999

2. Rules adopted revising s. ATCP 100.45, relating to security of dairy plant payments to milk producers.

Finding of Emergency

(1) Section 100.06, Stats., is designed to provide "reasonable assurance" that dairy farmers will be paid for the milk they produce. Under ss. 97.20(2)(d)2. and 100.06, Stats., a dairy plant must, as a condition to licensing, comply with applicable security requirements under s. 100.06, Stats., and department rules under ch. ATCP 100, Wis. Adm. Code. Since dairy plant licenses expire on April 30 annually, dairy plants must comply with applicable security requirements in order to qualify for license renewal on May 1 of each year.

(2) Under s. 100.06, Stats., and ch. ATCP 100, a dairy plant operator who purchases milk from producers must do one of the following:

(a) File with the department of agriculture, trade and consumer protection ("department") audited financial statements which show that the operator meets minimum financial standards established by s. 100.06, Stats.

(b) File security with the department in an amount equal to at least 75% of the operator's "maximum liability to producers," as calculated under s. ATCP 100.45(5).

(c) Enter into a dairy plant trusteeship under ch. ATCP 100, Subch. V.

(3) Under s. ATCP 100.45(5), a dairy plant operator's "maximum liability to producers" is based on the plant operator's largest monthly purchase of milk during the *preceding* license year. Milk prices hit all time record highs in 1998, dramatically increasing monthly dairy plant payrolls. Security requirements for the 1999

license year are currently based on these inflated 1998 monthly payrolls, even though 1999 monthly payrolls have dropped dramatically in response to price changes.

(4) Since December 1998, the average market price for raw milk has fallen by approximately 40%. Dairy economists expect BFP average prices to remain at least 12% to 16.2% below last year's average during 1999. Because of the dramatic decline in milk prices, dairy plants have smaller producer payroll obligations than they had in 1998.

(5) Prices received by Wisconsin dairy plants for processed dairy products have also fallen dramatically since December. This has created serious financial hardships for some dairy plants.

(6) Current security requirements, based on 1998 producer prices and payrolls, are excessive in relation to current payroll obligations and impose an added financial burden on dairy plants. Current security requirements under s. ATCP 100.45(5), based on last year's prices, are at least 31 to 48% higher than they would be if calculated at current prices.

(7) Because of the dramatic decline in dairy prices, some dairy plant operators are required to file large amounts of additional security, often amounting to millions of dollars. This is a major expense for affected operators. Operators may find it difficult, financially, to obtain and file the required security. If a dairy plant is unable to file the required security in connection with the May 1, 1999 license renewal, the department will be forced to take action against the dairy plant's license. This could result in the forced closing of some unsecured dairy plants. The forced closing of an unsecured plant may, in turn, result in serious financial losses to producer patrons.

(8) By requiring excessive security based on last year's prices, current rules are making it unnecessarily difficult and expensive for dairy plants to obtain and file security. This could contribute to the financial failure of some dairy plants, or to the forced closing of some unsecured plants. Dairy plant financial failures or closings, if they occur, may cause serious and widespread financial injury to milk producers in this state. This constitutes a serious and imminent threat to the public welfare.

(9) In order to reduce the risk of dairy plant financial failures or forced closings, rule amendments are urgently needed to adjust dairy plant security requirements to appropriate levels based on current milk prices. The rule amendments will relieve financially stressed dairy plants from unnecessary financial burdens and will make it easier for those dairy plants to file security with the department. That, in turn, will reduce the risk of dairy plant financial failures, or the forced closing of unsecured plants, which may adversely affect milk producers.

(10) Rule amendments, to be effective, must be promulgated prior to the dairy plant license year beginning May 1, 1999. That is not possible under normal rulemaking procedures. Therefore, the following emergency rule is needed to protect the public welfare.

(11) Should milk prices rise beyond the levels currently anticipated for the license year beginning May 1, 1999, so that security filed under this emergency rule is less than 75% of a dairy plant operator's current monthly producer payroll, the operator is required to notify the department of that fact under s. 100.06, Stats., and s. ATCP 100.20(3). The department may demand additional security at that time.

Publication Date: April 20, 1999
Effective Date: May 1, 1999
Expiration Date: September 28, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce

(Flammable & Combustible Liquids, Ch. Comm10)

Rules adopted revising **ch. Comm 10**, relating to regulation of flammable and combustible liquids.

Finding of Emergency

The Department of Commerce finds that an emergency exists and that adoption of a rule is necessary for the immediate preservation of public health, safety, welfare and the environment.

The facts constituting the emergency are as follows. Under ss. 101.09, 101.142 and 101.144, Stats., the Department protects public health, safety, welfare and the environment by promulgating rules for and administering the regulation of petroleum product storage tank systems and the storage and handling of flammable and combustible liquids. The purpose of the regulatory effort is to guarantee that storage tank systems and their contents are managed in a manner that is protective of life safety and the environment.

On December 22, 1998, a ten-year upgrade deadline comes to an end, and all tank systems falling under the United States Environmental Protection Agency's rules are required to have been upgraded to comply with new and environmentally protective construction standards. After the final compliance date, the Department and its contracted agents will conduct inspections to guarantee that tank systems which are not in compliance have been shut down in accordance with state and federal rules. In those instances where owners or operators have not complied with the upgrade or shutdown requirements, immediate action must be taken to either prevent the tank systems from continuing to be used or prevent the delivery of additional petroleum product to the systems.

The shut down of noncomplying tank systems is a core environmental and financial issue. The tank systems that are not in compliance pose a continuing high-risk threat to the environment, and delay in action will continue an unnecessary environmental hazard. Additionally, new releases from these non-upgraded tank systems will add to the financial burden of the PECFA program, which is significantly over-subscribed. The rule included with this order is in response to environmental issues associated with non-upgraded tank systems.

Publication Date: December 11, 1998
Effective Date: December 11, 1998
Expiration Date: May 10, 1999
Hearing Date: March 3, 1999
Extension Through: September 6, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce & Natural Resources

(Petroleum Environmental Cleanup Fund Interagency Responsibilities, Ch. Comm 46)

Rules adopted revising **ch. Comm 46**, relating to the Petroleum Environmental Cleanup Fund Interagency Responsibilities.

Finding of Emergency

The Department of Commerce finds that an emergency exists and that adoption of the rule included in this order is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under sections 101.143 and 101.144, Wisconsin Statutes, the Department protects public health, safety, and welfare by promulgating rules for and administering the Petroleum Environmental Cleanup Fund (PECFA Fund). The purpose of the fund is to reimburse property owners for eligible costs incurred because of a petroleum product discharge from a storage system or home oil tank system. In administering this fund, the Department has relied upon a Memorandum of Understanding with the Department of Natural Resources for classifying contaminated sites, disbursing funds, and addressing other statements of policy that affect the two Departments.

On September 17, 1998, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26(2)(b), Stats., that directed the Department and the Department of Natural Resources to jointly adopt the above portions of the Memorandum of Understanding and related policy issues as an Emergency Rule. An emergency rule in response to that directive was then adopted by the two Departments and became effective on January 1, 1999. Subsequently, further improvements for jointly administering the PECFA fund were developed that were consistent with the JCRAR directive, and were adopted by the two Departments in an emergency rule which replaced the initial emergency rule. That second emergency rule became effective on February 23, 1999. Now, significant additional changes have again been developed, which are also consistent with the JCRAR directive.

Chapter Comm 46 defines “high priority site,” “medium priority site,” and “low priority site,” and provides that the Department of Natural Resources has authority for high priority sites and that the Department of Commerce has authority for low and medium priority sites. The rule requires transfer of authority for sites with petroleum contamination in the groundwater below the enforcement standard in ch. NR 140 from the Department of Natural Resources to the Department of Commerce. The rule also establishes procedures for transferring sites from one agency to the other when information relevant to the site classification becomes available.

Chapter Comm 46 requires the two agencies to work cooperatively to develop the following:

1. A system of joint decision-making for the selection of remedial bids and the setting of remediation targets for sites which are competitively bid or bundled with another site or sites.

2. An agreed-upon methodology for determining if there is evidence of an expanding plume and the actions to take if the data provided through the site investigation is not adequate.

3. A process for taking into account the impact of error of measurement, repeatability of results and statistical significance, when determining whether a site is above or below the enforcement standard or any other contaminant level or target.

4. A system for electronically tracking the achievement of remediation targets.

5. A reconciled list of sites in remediation.

Publication Dates: June 8 & July 10, 1999
Effective Date: June 8, 1999
Expiration Date: August 28, 1999
Hearing Dates: July 12, 13, 14 & 15, 1999

EMERGENCY RULES NOW IN EFFECT (3)

Commerce

(Financial Resources for Communities,
Chs. Comm 105 to 128)

1. Rules adopted revising **ch. Comm 113**, relating to the annual allocation of volume cap on tax-exempt private activity bonds.

Finding of Emergency & Rule Analysis

The Department of Commerce finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare.

Several areas in the State of Wisconsin have recently experienced severe economic distress due to large plant closings which have put hundreds of Wisconsin residents out of work. As a result of two large paper mills being shut down a year ago, 1997 Wisconsin Act 237 created s. 560.147, Stats., authorizing the Rapid Response Fund within the Wisconsin Development Fund. The fund is part of the Rapid Response Initiative, which assists areas affected by these and future closings. Commerce is now proposing as part of this initiative a Rapid Response Set Aside within the volume cap allocation process which will enable businesses in these distressed areas to obtain the financing they need to make the necessary capital investments to create and retain jobs. Several projects are pending in that need this change in order to move forward with their plans. Allocation of volume cap is in highest demand in the spring and summer due to the construction cycle. The Rapid Response set-aside must be in place as soon as possible in order for projects to receive allocation and begin construction as soon as possible. Jobs cannot be created or retained until projects go forward.

Publication Date: February 17, 1999
Effective Date: February 17, 1999
Expiration Date: July 17, 1999
Hearing Date: April 12, 1999
Extension Through: September 14, 1999

2. Rules adopted creating **ch. Comm 112**, relating to the Wisconsin Development Zone Program.

Finding of Emergency

The Department of Commerce finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare.

Pursuant to ss. 560.70 to 560.797, Stats., the Department of Commerce is responsible for administering Wisconsin Development Zone Program. These rules are being adopted to incorporate in the administrative code the recent amendments contained in 1997 Wis. Act 27 that entirely changed the eligibility and the criteria for certified development zone businesses and the process for the verification and the claiming of tax credits. Section 560.785, Stats., directs the Department of Commerce to develop rules and exceptions to those rules concerning the eligibility for tax benefits. After a review and evaluation of all the certified businesses and their projects a number of exceptions have been identified in order to meet the needs of different areas of the state and to fulfill our commitments to businesses that were made prior to this legislation. In order to process claims for tax years beginning on or after January, 1, 1998, these rules must be made available immediately.

Publication Date: February 25, 1999
Effective Date: February 25, 1999
Expiration Date: July 25, 1999
Hearing Date: May 12, 1999
Extension Through: September 22, 1999

3. Rules adopted creating **ch. Comm 111**, relating to certified capital companies.

Finding of Emergency

The Department of Commerce finds that an emergency exists and that the adoption of the rule is necessary for the immediate preservation of public health, safety and welfare.

Analysis of Rules

Statutory Authority: ss. 560.31, 560.34 (1m) (b), and 227.24
 Statutes Interpreted: ss 560.31, 560.34 (1m) (b), and 227.24

On June 17, 1999, the Department of Commerce (Commerce) held a public hearing on proposed rules in response to 1997 Wis. Act 215. That act provides tax credits to persons that make certain investments in certified capital companies that are certified by Commerce. Legislators and persons interested in the rules testified at the hearing and requested that Commerce adopt an emergency rule that would (1) allow persons to apply for certification to become certified as capital companies, (2) allow persons to apply to make a certified capital investment in a certified capital company, and (3) set forth the operational and reporting requirements of certified capital companies required under the law. Since then, articles in the newspaper as well as business journals have pointed out the lack of venture capital in the state hinders high-tech growth and making that capital available will benefit Wisconsin as it has done in other states. This emergency rule is necessary to begin implementation of the law and to place Wisconsin in a better position to make capital available to draw high-tech industries, create new businesses, and expand existing businesses that will ultimately create new jobs and benefit all its citizens.

Publication Date: July 23, 1999
Effective Date: July 23, 1999
Expiration Date: December, 19, 1999
Hearing Date: August 17, 1999
 [See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Employment Relations Commission

Rules adopted revising **ch. ERC 33, Appendix C**, relating to the calculation of a minimum qualified economic offer in collective bargaining with professional school district employees.

Finding of Emergency

We find that it is necessary to promulgate the amendment to ch. ERC 33, Appendix C as an emergency rule to preserve the public peace, health, safety and welfare. Without the amendment, the timely and peaceful resolution of collective bargaining disputes in Wisconsin will be endangered.

Publication Date: June 12, 1999
Effective Date: June 12, 1999
Expiration Date: November 9, 1999

EMERGENCY RULES NOW IN EFFECT

Financial Institutions (Division of Securities)

Rules adopted creating **s. DFI-Sec 2.01(1)(c)6 and (d)6.**, relating to designating alternative accounting guidelines for the preparation of financial statements for certain governmental issuers of securities.

Finding of Emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows.

These emergency rules are necessitated by a new accounting guideline relating to disclosures about Year 2000* issues applicable to the preparation of financial statements for governmental issuers of securities as required by Governmental Accounting Standards Board Technical Bulletin 98-1, *Disclosures about Year 2000 Issues* ("GASB TB 98-1", or "Guideline"). The existence of this issue and the need for emergency rule treatment to assist governmental issuers was brought to the attention of the Division by representatives of Wisconsin public accounting groups and Wisconsin bond attorneys who recently learned about a Report by the American Institute of Certified Public Accountants regarding GASB TB 98-1.

As a result of that Report (and as particularized below) many Wisconsin governmental issuers would have the audit opinions for their financial statements for years ending after October, 1998, qualified with respect to disclosures about Year 2000 issues. Thus beginning in approximately March and April of 1999 and continuing through the accounting period ending 12/31/99, that new accounting Guideline will adversely impact the ability of Wisconsin and other state and local governmental securities issuers to continue to use on an "automatic"/self-executing basis, the existing securities registration exemption in s. 551.22(1)(a) of the Wisconsin Securities Law to offer and sell their debt securities to public investors in Wisconsin.

Over the years and to date, Wisconsin and other state and local governmental securities issuers having "full-GAAP" financial statements (e.g. prepared in accordance with generally accepted accounting principles) have been able to sell their debt securities to Wisconsin public investors in reliance on automatic use of the registration exemption in s. 551.22(1)(a), Wis. Stats., without the need for any exemption or other filing with the Division.

GASB TB 98-1 requires footnote disclosure of Year 2000 information regarding a governmental issuer's preparedness in terms of making its systems and equipment Year 2000 compliant. GASB TB 98-1 applies to financial statements dated October 31, 1998, and terminates for financial statements issued for purposes of the accounting period ending December 31, 1999, unless systems and equipment are not Year 2000 compliant as of the balance sheet date. In response to GASB TB 98-1, members of the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) issued a Report under the title "AICPA Illustrative Reporting Guidance on Year 2000 Disclosures Made Under GASB TB 98-1, Issued October 22, 1998." That Report raised the concern that in light of the unprecedented nature of the Year 2000 issue, the required disclosures will be neither ascertainable by management nor verifiable by auditors. As a result, the AICPA strongly recommended that auditors issue qualified opinions (scope limitations) with respect to such Year 2000 issue disclosures.

Consequently, all Wisconsin and other governmental securities issuers whose financial statements would contain such qualified opinions, would not meet (in the absence of the emergency rules) the "full-GAAP" financial statement requirement for automatic use of the registration exemption in 551.22(1)(a), Wis. Stats. Thus, such issuers would either have to go through a regulatory filing and review procedure with the Division prior to each offering, or would have to restrict the initial offering to securities law provisions that would preclude underwriters from reoffering those securities to investors in the primary and secondary markets.

In the absence of the emergency rules, governmental securities issuers would be adversely affected by the costs of making securities filings with their attendant delays. Also, even though Year 2000 issues equivalently affect private corporate issuers of securities, because there is no counterpart to GASB TB 98-1 within the standards promulgated by the Financial Accounting Standards Board applicable to private corporate securities issuers, the additional costs and filing delays would be singularly borne by governmental securities issuers (if the emergency rules were not adopted).

Finally, having a filing requirement under the Wisconsin Securities Law be triggered for Wisconsin and other state and local governmental securities offerings solely because of an auditor's qualification in an audit report on the Year 2000 issue, would result in added regulatory filing and review processes and procedures

under the Wisconsin Securities Law that would not provide any “value added” investor protection benefits.

Therefore, in similar fashion to emergency rule–making action taken by the Division in 1994 and 1996 regarding specific accounting issues which occurred at those times, and for the purpose of alleviating the disruption that would occur in the borrowing/bonding plans of Wisconsin and other state and local governmental issuers that regularly claim exemption status under sec. 551.22(1)(a), Wis. Stats., for the offer and sale of their debt securities in Wisconsin, the Division, in consultation with representatives of Wisconsin accounting groups and Wisconsin bond attorneys, is adopting these emergency rules designating an alternative–to–full–GAAP financial statement requirement (when the governmental issuer’s financial statements are full–GAAP) where the auditor’s opinion is qualified in accordance with GASB TB 98–1 with respect to disclosures concerning Year 2000 issues. As a result of such emergency rules, those Wisconsin and other state and local governmental securities issuers affected by GASB TB 98–1 will be able to continue to rely on the “automatic” registration exemption under 551.22(1)(a), Wis. Stats., for their securities offerings.

[Because this issue which has been triggered by GASB TB 98–1 has a limited “shelf life” such that no permanent rules relating to it will be needed after December 31, 2000, when action is taken by the Division to promulgate identical permanent rules to become effective upon expiration of the emergency rules, the permanent rules will provide for a December 31, 2000 “sunset” date, after which the permanent rules on the issue will no longer be effective.]

*The Year 2000 problem is the result of shortcomings in electronic data–processing systems and equipment that may adversely affect operations in the year 2000 and beyond. The problem stems from the use within electronic systems and equipment of two–digit storage for calendar years. Affected and uncorrected systems and equipment may be unable to distinguish the year 2000 from the year 1900; as a result, such systems may process inaccurately or stop processing altogether.

Publication Date: February 25, 1999

Effective Date: March 1, 1999

Expiration Date: July 29, 1999

Extension Through: August 31, 1999

EMERGENCY RULES NOW IN EFFECT

Professional Geologists, Hydrologists and Soil Scientists

Rules adopted creating **chs. GHSS 1 to 5**, relating to the registration and regulation of professional geologists, hydrologists and soil scientists.

Exemption From Finding of Emergency

The Examining Board of Geologists, Hydrologists and Soil Scientists finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, safety or welfare. A statement of the facts constituting the emergency is:

Section 64 of 1997 Wis. Act 300 states that the board is not required to make a finding of emergency. However, the board offers the following information relating to the promulgation of these rules as emergency rules. The new regulation of professional geologists, hydrologists and soil scientists was created in 1997 Wis. Act 300. The Act was published on June 30, 1998; however the Act created

an effective date for the new regulation as being the first day of the 6th month beginning after the effective date of this subsection.

Publication Date: May 15, 1999

Effective Date: May 15, 1999

Expiration Date: October 12, 1999

Hearing Date: June 23, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Health & Family Services

(Medical Assistance, Chs. HFS 101–108)

1. Rules were adopted revising **chs. HFS 101 to 103, and 108**, relating to operation of BadgerCare health insurance program.

Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

This order creates rules that specify how a new program called BadgerCare, established under s. 49.665, Stats., will work. Under BadgerCare, families with incomes up to 185% of the federal poverty level, but not low enough to be eligible for regular Medical Assistance (MA) coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs. The order incorporates the rules for operation of BadgerCare into chs. HFS 101 to 103 and 108, four of the Department’s chapters of rules for operation of the MA program.

BadgerCare is projected to cover over 40,000 currently uninsured Wisconsin residents, including more than 23,000 children, by the end of 1999.

Benefits under BadgerCare will be identical to the comprehensive package of benefits provided by Medical Assistance. The existing Wisconsin Medicaid HMO managed care system, including mechanisms for assuring the quality of services, improving health outcomes and settling grievances, will be used also for BadgerCare.

Department rules for the operation of BadgerCare must be in effect before BadgerCare may begin. The program statute, s. 49.665, Stats., was effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement BadgerCare not later than July 1, 1998, or the effective date of the waiver, whichever date was later. The federal waiver letter approving BadgerCare was received on January 22, 1999. It specified that BadgerCare was not to be implemented prior to July 1, 1999. Once the letter was received, the Department began developing the rules. They are now ready. The Department is publishing the rules by emergency order so that they will go into effect on July 1, 1999, rather than at least 9 months later, which is about how long the process of making permanent rules takes, and thereby provide already authorized health care coverage as quickly as possible to families currently not covered by health insurance and unable to pay for needed health care.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate BadgerCare and in the process provide more specificity than s. 49.665, Stats., about the nonfinancial and financial conditions of eligibility for BadgerCare; state who is included in a BadgerCare group and whose income is taken into consideration when determining the eligibility of a BadgerCare group; expand on statutory conditions for continuing to be eligible for BadgerCare; exempt a BadgerCare group with monthly income at or below 150% of the federal poverty level from being obliged to contribute toward the cost of the health care coverage; and set forth how the Department, as an alternative to

providing Medical Assistance coverage, will go about purchasing family coverage offered by the employer of a member of a family eligible for BadgerCare if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

Publication Date: July 1, 1999
Effective Date: July 1, 1999
Expiration Date: November 28, 1999
Hearing Dates: August 26, 27, 30 & 31, 1999
 [See Notice this Register]

2. Rule adopted amending s. HFS 105.39 (4) (b) 3., relating to certification of specialized medical vehicle providers.

Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules included in this order is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The Department's rules for certification of specialized motor vehicle (SMV) providers under the Medical Assistance (MA) program include requirements for SMV drivers. Among current requirements is that each driver must receive training in first aid and cardiopulmonary resuscitation (CPR) before driving a vehicle or serving as an attendant and must receive refresher training in first aid every 2 years and refresher training in CPR annually. The specific requirements for refresher training date from December 1, 1994. When revising its rules for SMV providers earlier in 1994 the Department proposed to require refresher training every 2 years for both first aid and CPR, but at the public hearings on the proposed rules 5 SMV providers said the CPR refresher training should take place annually and the Department agreed and made that its requirement.

Although the American Red Cross CPR training and certification that the person is trained continue to be annual, the equivalent American Heart Association CPR training and certification (the American Heart Association prefers "recognition" to "certification") is now every 2 years. This means that to comply with the Department's current MA rule for SMV drivers, s. HFS 105.39 (4) (b) 3., drivers who receive their training from the American Heart Association must repeat the training each year. That is unnecessary for maintenance of American Heart Association certification (recognition) and the time and expense involved is a burden on SMV providers and drivers. The Department is modifying the rule through this order to simply require that drivers maintain CPR certification.

The Department through this order is also changing the requirement for refresher training in first aid from every 2 years to at least every 3 years. That is because the American Red Cross certification in first aid is now for 3 years. A requirement for more frequent refresher training in first aid is a burden in time and expense involved for SMV providers and drivers.

Publication Date: July 3, 1999
Effective Date: July 3, 1999
Expiration Date: November 30, 1999
Hearing Date: September 1, 1999
 [See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Health and Family Services

(Health, Chs. HSS/HFS 110—)

Rules were adopted revising **ch. HFS 119**, relating to the Health Insurance Risk-Sharing Plan.

Exemption From Finding of Emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats. by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24(1) and (3), Stats., that it make a finding of emergency. These are the rules. Department staff consulted with the HIRSP Board of Governors on April 30, 1999 on the proposed rules, as required by s. 149.20, Stats.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,291 HIRSP policies in effect on March 31, 1999 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 2., Stats. The Department is required to set premium rates by rule. These rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

There are separate sets of tables in ch. HFS 119 that show unsubsidized and subsidized Plan 2 premium rates. Both sets of tables are amended by this order to increase the premium rates because Plan 2 costs, which historically have been running about 50% less than Plan 1 costs, began to increase several years ago and now are running at about 67% of Plan 1 costs. The Plan 2 premium rates need to be increased to cover increased costs of treatment for individuals enrolled under Plan 2. The order increases these premium rates by about 18%.

In January 1999, the Department published an emergency rule order to increase HIRSP unsubsidized Plan 2 premium rates by about 10%, with the intention of increasing those rates again in July 1999 to the level provided for in this order. However, in May 1999 the Legislature's Joint Committee for the Review of Administrative Rules (JCRAR) refused to extend the effective period of that part of the January 1999 emergency rule order relating to premium rate increases, with the result that effective May 31, 1999, the rates reverted back to the rates in effect before January 1, 1999. Consequently, to increase rates effective July 1, 1999, the Department through this rulemaking order has based the increased rates on the rates in effect prior to January 1, 1999.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a)3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1998. The Board of Governors approved a reconciliation methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula. By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 1999.

The result of this reconciliation process for calendar year 1998 indicated that insurance assessments collected were greater than the

20% of costs (net of the GPR contribution from appropriation s. 20.435(5)(af), Stats.), required of insurers. Also, the calendar year 1998 reconciliation process showed that an insufficient amount was collected from health care providers. As a result of this reconciliation, the insurer assessments for the time periods July 1, 1999 through December 31, 1999 and January 1, 2000 through June 30, 2000, are reduced to offset the overpayment in 1998. The total adjustments to the provider payment rates for the same time periods are sharply increased in order to recoup the provider contribution that was not collected in calendar year 1998. The budget for the plan year ending June 30, 2000 and the calendar year 1998 reconciliation process were approved by the HIRSP Board of Governors in April 1999.

Publication Date: June 30, 1999
Effective Date: July 1, 1999
Expiration Date: November 28, 1999
Hearing Date: September 9, 1999

[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Insurance

Rules adopted amending ss. **Ins 17.01 (3) (intro.) and 17.28 (6a)** repealing and recreating s. **Ins 17.28 (6)**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1999.

Finding of Emergency

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule No. 99–70, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1999.

The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 1, 1999. Because the fund fee provisions of this rule first apply on July 1, 1999, it is necessary to promulgate the fee portion of the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 17, 1999.

Publication Date: June 4, 1999
Effective Date: July 1, 1999
Expiration Date: November 28, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Natural Resources

(Environmental Protection–Water Regulation, Chs. NR 300–)

1. Rules adopted creating **ch. NR 303**, relating to department determinations of navigability for farm drainage ditches.

Exemption From Finding of Emergency

The Department was directed by the JCRAR under s. 227.26 (2) (b), Stats., to promulgate emergency rules regarding navigability

Analysis prepared by the Department of Natural Resources

Statutory authority: s. 227.26 (2)(b)

Statute interpreted: s. 30.10 (4)(c)

This order codifies present department program guidance for staff making navigability determinations for farm drainage ditches, identifying various methods and information to be relied on when making such determinations.

Publication Date: May 1, 1999
Effective Date: May 1, 1999
Expiration Date: September 28, 1999
Hearing Dates: June 16 and 17, 1999

2. Rules adopted creating **ch. NR 328**, relating to regulation of water ski platforms and water ski jumps.

Analysis by the Department of Natural Resources

Statutory authority: ss. 30.135, 227.11 (2) (a) and 227.24

Statutes interpreted: ss. 30.66, 30.69 and 30.135

Chapter NR 328 describes the conditions where a water ski jump or platform will require a permit. It explains what constitutes a substantive written objection to a water ski jump or platform and provides a list of reasons that support a substantive written objection. It specifies the contents of a public notice and the process for making a substantive written objection. It details how the department will respond to complaints about an existing water ski jump or platform.

These rules were promulgated as emergency rules at the direction of the joint committee for review of administrative rules.

Publication Date: July 9, 1999
Effective Date: July 9, 1999*
Expiration Date: December 6, 1999

*Rule suspended by Joint Committee for Review of Administrative Rules on July 5, 1999.

EMERGENCY RULES NOW IN EFFECT (2)

Public Service Commission

1. Rules adopted revising **ch. PSC 4**, relating to small generating plants.

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin ratepayers by ensuring a reliable energy supply in 2000 and beyond, the Commission's review process of proposed new generating plants that are less than 100 MW in size must be amended. A revision is needed so the review process for such projects can be completed in time to allow construction of necessary projects, if approved, by June 1, 2000. Permanent rules cannot be adopted in time to affect the Commission's review period. An emergency rule is necessary to change the Commission's review process immediately.

Publication Date: January 19, 1999
Effective Date: January 19, 1999
Expiration Date: June 18, 1999
Hearing Date: February 22, 1999
Extension Through: August 16, 1999

2. Rules adopted creating **ch. PSC 186**, relating to standards for water and sewer service in mobile home parks.

Exemption From Finding of Emergency

These rules are now being adopted as emergency rules effective May 1, 1999, as directed by section 22(2) of 1997 Wis. Act 229.

Publication Date: May 1, 1999
Effective Date: May 1, 1999
Expiration Date: September 28, 1999

EMERGENCY RULES NOW IN EFFECT**Revenue**

A rule was adopted creating **s. Tax 11.20**, relating to the sales and use tax treatment of machinery and equipment used in waste reduction and recycling activities.

Exemption From Finding of Emergency

On February 25, 1999, the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26, (2) (b), Stats., directed the Department of Revenue to use the emergency rule making process to promulgate as an emergency rule, within 30 days, its policies interpreting s. 77.54 (26m), Stats.

Analysis by the Department of Revenue

Statutory authority: ss. 227.11 (2) (a) & 227.26 (2) (b)

Statute interpreted: s. 77.54 (26m)

Section Tax 11.20 is created to address the sales and use tax exemptions for waste reduction and recycling activities.

Publication Date: March 27, 1999
Effective Date: March 27, 1999
Expiration Date: August 24, 1999

STATEMENTS OF SCOPE OF PROPOSED RULES

Chiropractic Examining Board

Subject:

Chir Code – Relating to including “utilization reviews” in the scope of practice of chiropractic and requiring that such utilization reviews be performed by a chiropractor licensed in this state.

Description of policy issues:

Objective of the rule:

The need for utilization reviews of chiropractic to be performed by qualified persons familiar with Wisconsin law.

Policy analysis:

To define utilization reviews as an activity within the scope of practice of chiropractic and to ensure that utilization reviews of chiropractic are performed by qualified persons familiar with Wisconsin law.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2), Stats.

Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:

80 hours.

Employment Relations

Division of Merit Recruitment and Selection

Subject:

SS. ER–MRS 6.08 (2) and 11.04 – Relating to release of civil service examination information and removal of names from civil service employment registers.

Description of policy issues:

Description of the objective of the rule changes:

The rule modification regarding release of examination information for certified applicants is designed to help hiring managers make the best possible hiring decisions. Many hiring supervisors and managers believe that access to narrative examination information on certified candidates (i.e., responses to essay exams or training and experience questionnaires, resumes, letters of interest, etc.) will provide information that will help prepare for interviews and make the best possible employment decisions. DMRS agrees. Under current rules DMRS cannot allow hiring supervisors to have access to these materials.

The rule change will also improve the state’s image with applicants. Certified applicants often assume wrongly that hiring officials have already reviewed their responses to the examination materials the applicants have already submitted. Applicants and hiring officials both find it frustrating, inconvenient, inefficient and redundant to ask for and supply the same materials (e.g., resumes), during the employment interview that the applicant has already provided in his/her application materials.

DMRS also seeks the authority to remove certified applicants from employment registers when these applicants fail to appear for employment interviews they agreed to attend, without notifying the hiring agency of the reason(s) for their failure to appear. Of course, if a candidate has a valid reason for not appearing (e.g., traffic accident, personal emergency) he or she would not be removed. Removing applicants who show a lack of interest will speed the hiring for vacancies and enable state agencies to invest scarce resources on candidates who are truly interested in being considered.

Description of existing relevant policies and new policies to be included in the rule and analysis of policy alternatives:

Section ER–MRS 6.08 (2), Wis. Adm. Code, lists examination information that may not be released. This rule modification would add language to broaden the base of information that may be authorized for release by the Administrator to the appointing authority. Examination scores and ranks and other evaluations of applicants would continue to be closed records (s. 230.13, Stats).

Section ER–MRS 11.04, Wis. Adm. Code, provides for removal of names from registers and refusal to certify applicants. This rule modification would add language authorizing the Administrator to remove from an employment register the name of an applicant who agrees to appear for a scheduled employment interview but who does not appear and provides no reason for failing to appear.

Statutory and administrative code authority for the rule:

ER–MRS 6.08, Wis. Adm. Code, grants the Administrator of the Division of Merit Recruitment and Selection authority to release or not release certain kinds of examination information.

ER–MRS 11.04, Wis. Adm. Code, grants the Administrator of the Division of Merit Recruitment and Selection authority to remove names from registers and refuse to certify applicants.

Section 230.05 (5), Wis. Stats., grants the Administrator of the Division of Merit Recruitment and Selection general authority to promulgate rules on provisions for which the administrator has statutory responsibility.

Estimate of the amount of time state employees will spend to develop the rule and other resources necessary to develop the rule:

Estimated time to be spent by state employees — 100 hours. No other resources are necessary.

Higher Educational Aids Board

Subject:

S. HEA 11.03 – Relating to administration of minority teacher loan program.

Description of policy issues:

Action:

Section HEA 11.03 to be revised.

Description of objectives:

Mandated by 1989 Wis. Act 31 and required for proper administration of program.

Description of policies:

The 1989 Wis. Act 31 created s. 39.40, Stats., provides for loans to minority students enrolled in programs of study leading to licensure as a teacher. The Wisconsin Higher Educational Aids Board (HEAB) administers this loan program under s. 39.40, Stats., and under ch. HEA 11. Current rules require that a student be enrolled full time and show financial need to be considered for participation in the Minority Teacher Loan Program. Students who did not enroll full time and did not show financial need were allowed to participate in the program in the past when part of the program was administered by another administrative body. These students are enrolled in teacher education programs that train teachers specifically for the school districts named in the statutes that outline the intent of the Minority Teacher Loan Program. Revising the rules would allow students who participated in the program in the past to continue to participate.

Statutory authority for the rule:

Sections 39.28 (1) and 227.11 (2), Stats.

Estimates of staff time and other resources needed to develop the rules:

Estimated hours of staff time – 80 hours. An advisory group consisting of financial aid administrators and Board members will be selected to advise HEAB on drafts of s. HEA 11.03.

Insurance, Commissioner of

Subject:

S. Ins 3.09 – Relating to mortgage guarantee transaction related to affiliates.

Description of policy issues:

A statement of the objective of the rule:

To establish standards for transaction of mortgage guarantee business related to an affiliate when the affiliate is 50% owned by another party.

A description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:

Existing rules restrict mortgage guarantee transactions that are related to an affiliate.

Statutory authority for the rule:

Sections 601.01, 601.42, 611.19, 611.24, 618.21, 620.02, 623.02, 623.03, 623.04, 623.11, 627.05 and 628.34 (12) and ch. 617, Stats.

An estimate the amount of time that state employees will spend to develop the rule and a description of other resources necessary to develop the rule:

50 hours.

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Subject:

Chs. NR 120, 216 and 243 – Relating to incorporating performance standards and other changes required by 1997 Wis. Act 27 into existing programs related to controlling nonpoint source pollutants and to soil and water resource management.

Description of policy issues:

Description of the subject of the administrative code action/nature of Board action:

Both the Department of Natural Resources (DNR) and the Department of Agriculture, Trade and Consumer Protection (DATCP) have programs to protect water quality by controlling nonpoint source pollutants. In the state biennial budget, 1997 Act 27 Legislation was passed which requires the DNR and DATCP to develop or modify existing programs and administrative rules related to nonpoint source and soil and water resource management.

Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:

1. For non-agricultural nonpoint sources, the Department will prescribe performance standards designed to achieve water quality standards and specify a process for development and dissemination of technical standards to implement performance standards.

2. For agricultural nonpoint sources, the DNR in consultation with DATCP, will prescribe performance standards and prohibitions designed to achieve water quality standards, and at a minimum, include the four Animal Waste Advisory Committee (AWAC) prohibitions.

3. The Department will consult with DATCP regarding the development of conservation practices and the development of a process for creating and disseminating technical standards. At a minimum, they must cover animal waste, nutrient management, and cropland sediment delivery.

4. Changes to existing programs and codes (i.e. chs. NR 120 and 243) are needed to incorporate performance standards and other changes required under Act 27.

5. The Department will develop criteria for the availability of cost-sharing and address other compliance issues.

6. The Department must develop a procedure to evaluate whether more stringent local ordinances are necessary to attain water quality standards.

7. Changes to ch. NR 243 are needed to incorporate some of the AWAC recommendations and to address other issues associated with expansions and large animal operations.

Groups likely to be impacted or interested in these issues are appointed by the Secretaries to serve on an Outreach Advisory Committee.

This action represents a change from past policy.

This rule/Board action represents an opportunity for pollution prevention and/or waste minimization.

Statutory authority for the rule:

The proposed rule/Board action is based on general authorization, s. 227.11, Stats., that requires rule-making, and contains some specific standards.

Anticipated time commitment:

The anticipated time commitment is approximately 1440 hours. Between 5–10 hearings will be held between January and February 2000 at locations regionally around the state.

Pharmacy Examining Board

Subject:

S. Phar 7.01 (1) (e) – Relating to the delivery of medications at locations other than a pharmacy or a patient's residence.

Description of policy issues:

Objective of the rule:

To permit the delivery of medications at locations designated by the patient, such as the patient's place of employment.

Policy analysis:

The current rule, s. Phar 7.01 (1) (e), Wis. Adm. Code, allows for medications to be delivered to the patient's residence. The amendment would allow medications to be delivered at other locations designated by the patient.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2), Stats.

Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:

60 hours.

Public Instruction

Subject:

S. PI 6.03 – Relating to improving public librarian certification by clarifying, updating and refining the current public librarian certification rules.

Description of policy issues:

Rationale for proposed rule development:

The Department proposes to clarify, refine, and update the current public librarian certification rules. The current certification rules have been in place almost five years. Since that time, a number of issues and questions have surfaced. Specifically, some parts of the rules need clarification; there are gaps in coverage; some of the rules are obsolete; and, some of the rules need to be refined. The changes would improve certification, both administratively and for participants.

Describe the objective(s) of the proposed rule:

The objective is to improve public librarian certification by clarifying, updating and refining the current public librarian certification rules.

Describe any existing relevant policies to be included in the administrative rule:

None.

Describe any new policies to be included in the proposed rule:

The following public librarian certification changes would be made:

- Continuing education participation would be measured by contact hours rather than continuing education points;
- The required number of contact hours for continuing education would be the same for all grade levels;
- Provisional certificates would be granted for five years, rather than one year;
- Applicants who have not completed all of the library course requirements would be issued temporary certificates rather than provisional certificates;
- Temporary certificates would be available for 1 to 3 years, depending on the grade level and the courses to be completed;
- Library directors in communities with a population increase would receive an upgraded provisional certificate for the same time period as the certificate being replaced;
- Library directors eligible for temporary certification must apply within 3 months of employment, rather than the current 6 months; and,
- Temporary certificates will be available to certain previously certified applicants whose certification has expired.

Describe policy alternatives:

Maintain current rules.

Statutory authority:

Sections 43.07 (1) and 43.09, Stats.

Estimate the amount of time/staff resources necessary to develop rule:

The amount of time needed for rule development by department staff and the amount of other resources necessary is indeterminable. The time needed in creating the rule language, itself, will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

Public Instruction

Subject:

Ch. PI 37 – Relating to establishing a grant program for national teacher certification.

Rationale for proposed rule development:

1997 Wis. Act 237 created s. 115.42, Stats., which establishes a grant program for national teacher certification. Under the program, the state superintendent shall award \$2,000 in the 1999–2000 school year and \$2,500 in the 2000–01 school year to any applicant who meets certain requirements.

Also, a person receiving a national teacher certificate is exempt from meeting the teacher license renewal requirements in the 5 years immediately preceding his or her application for renewal if he or she has been initially certified by the National Board for Professional Teaching Standards during those 5 years.

The Department is required to promulgate rules to implement this program, including:

- The application process, including the necessary documentation.
- The selection process for grant recipients.
- The number of times a teacher may be exempt from continuing professional education requirements.

Describe the objective(s) of the proposed rule:

The rule will:

- Specify application and eligibility requirements for persons applying for the national teacher certification grant.

- Specify the number of times a person holding national board certification may be exempt from meeting continuing professional education requirements when renewing a state certification license.

Describe any existing relevant policies to be included in the administrative rule:

None.

Describe any new policies to be included in the proposed rule:

None.

Describe policy alternatives:

Section 115.42 (4), Stats., requires the Department to promulgate rules to implement the programs. Therefore, there are no alternatives.

Statutory reference/authority:

Sections 115.42 (4) and 227.11 (2) (a), Stats.

Estimate the amount of time/staff resources necessary to develop rule:

The amount of time needed for rule development by Department staff and the amount of other resources necessary is indeterminable. The time needed in creating the rule language, itself, will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

Transportation

Subject:

Ch. Trans 4 – Relating to establishing the Department's administrative interpretation of s. 85.20, Stats. and prescribing the administrative policies and procedures for implementing the State Urban Mass Transit Operating Assistance Program authorized under s. 85.20, Stats.

Description of policy issues:

Description of the objective of the proposed rule-making:

Chapter Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats. and prescribes the administrative policies and procedures for implementing the State Urban Mass Transit Operating Assistance Program authorized under s. 85.20, Stats. The purpose of this rule-making is to correct portions of the rule that are currently in conflict with statute, as well as to incorporate changes to reflect current program policy. This rule-making will also clarify existing provisions of the rule and reorganize portions to improve readability.

PROPOSED AMENDMENT 1 DEFINITION OF URBAN AREA

Description of objective of the amendment:

Amend s. Trans 4.02 (9) to modify the definition of "urban area". An urban area is currently defined as an area that includes a city or village with a population of 2,500 or more. The definition would be changed to read that an urban area is a city or village with a population of 2,500 or more.

Description of existing policies relevant to the amendment:

A literal interpretation of the current definition of "urban area" would allow a County that includes a city or village with a population of at least 2,500 to use state aid to fund a countywide public transit system that served primarily rural areas. Statutory intent and current policy limit the use of state aid to funding systems in urban areas, disallowing services provided in the rural portions of counties.

PROPOSED AMENDMENT 2 DEFINITION OF URBAN MASS TRANSIT SYSTEM

Description of objective of the amendment:

Amend s. Trans 4.02 (10) to expand the definition of "urban mass transit system" to include approved regional transit systems.

Description of existing policies relevant to the amendment:

For the past several years, WISDOT's policy has been to encourage the development of regional transit services that link urban centers within our large metropolitan areas. This amendment would allow the use of state aids to fund such services.

PROPOSED AMENDMENT 3
PROJECT COSTS

Description of objective of the amendment:

Amend s. Trans 4.04 to allow as eligible costs for private providers of shared–ride taxi services operating under contract to a public body, interest on short–term debt and management fees.

Description of existing policies relevant to the amendment:

When this rule was originally drafted, its provisions were geared to publicly–owned and –operated urban transit systems. There are currently 35 privately–owned shared–ride taxi systems participating in the program. WISDOT policy for the past several years has been to recognize these costs as necessary costs of doing business for private providers. This amendment will bring the rule into conformance with current policy.

PROPOSED AMENDMENT 4
USER–SIDE SUBSIDIES FOR SHARED–RIDE TAXI
SYSTEMS

Description of objective of the amendment:

Repeal s. Trans 4.04 (3), which allows as eligible expenses the cost of general public user–side subsidies for shared–ride taxi systems.

Description of existing policies relevant to the amendment:

The concept of user–side subsidies for the general public on a system–wide basis is unworkable and obsolete. The concept is dependent upon the ability to develop precise estimates of not only expenses, but also passengers. Any error in estimating either of these factors could result in a substantial unfunded operating deficit, which would be the liability of the private provider. No private provider would be willing to take such a risk, and no shared–ride taxi system has ever operated under user–side provisions.

PROPOSED AMENDMENT 5
COMPETITIVE BIDDING

Description of objective of the amendment:

Amend s. Trans 4.04 (4) (a) to require that all services provided by a private contractor be competitively bid at least once every five years.

Description of existing policies relevant to the amendment:

Existing federal rules require that all urban transit services provided by private contractors, and receiving federal aid, must be competitively bid at least once every five years. While ch. Trans 4 allows for competitive bidding, it does not require it. This is good public policy and would bring guidelines of the state program into conformance with federal guidelines.

PROPOSED AMENDMENT 6
WAGES AND FRINGE BENEFITS OF PUBLIC EMPLOYEES

Description of objective of the amendment:

Amend s. Trans 4.04 (5) (s) to allow wages and fringe benefits of public employees as eligible expenses for those employees involved in administration of the public transit contract with a private transportation provider, or in monitoring the performance of a private transportation provider.

Description of existing policies relevant to the amendment:

WISDOT policy has been to allow these costs as eligible since the mid–1980s when the program began funding shared–ride taxi systems operated by private transportation providers operating under contract to public bodies. This amendment merely brings the rule into conformance with existing policy and places federal and state programs in sync with each other.

PROPOSED AMENDMENT 7
EXPENSES PAID FOR WITH FEDERAL CAPITAL DOLLARS

Description of objective of the amendment:

Amend s. Trans 4.04 (5) to clarify that any expense that is paid for with Federal Transit Administration capital funds is not eligible under the state operating assistance program.

Description of existing policies relevant to the amendment:

Over the past several years, the allowable use of Federal Transit Administration capital funds has been expanded to cover many expenses previously designated as “operating costs.” WISDOT policy has been to not fund capital expenses. This amendment further clarifies WISDOT policy on this issue.

PROPOSED AMENDMENT 8
DUPLICATION OF SERVICE

Description of objective of the amendment:

Amend s. Trans 4.04 (5) for transit systems providing service outside their jurisdictional boundaries to make ineligible expenses related to services which duplicate those provided by another public transit system.

Description of existing policies relevant to the amendment:

While logic would dictate that the state operating assistance program would not pay two operators to provide the same service in the same geographic area, the administrative rule currently doesn’t address the issue. In the past few years, the issue has arisen in the La Crosse urbanized area. Department policy established as a result is that the program will not fund expenses for duplicative services. This amendment codifies this policy.

PROPOSED AMENDMENT 9
COMPETITIVE BID IN RELATION TO FINANCIAL AUDITS

Description of objective of the amendment:

Amend s. Trans 4.05 (1) (b) to clarify conditions under which a transit system is exempted from a financial audit because the service was competitively bid.

Description of existing policies relevant to the amendment:

Currently, s. Trans 4.05 (1) (b) excludes a transit system from the financial audit requirement if the public body contracts for services with a private transportation provider on the basis of competitive bids. Oftentimes a private provider is awarded a multiyear contract when an actual dollar amount was bid for only the first year. The amendment would allow the exemption from audit only for years in which an actual dollar amount was bid.

PROPOSED AMENDMENT 10
STATE SHARE AND DISTRIBUTION OF STATE AIDS

Description of objective of the amendment:

Amend ss. Trans 4.05 and 4.06 to eliminate provisions that are in conflict with s. 85.20, Stats. These provisions relate to the state share of operating costs, and the methodology for distribution of state aids.

Description of existing policies relevant to the amendment:

Currently, ss. Trans 4.05 and 4.06 contain language which duplicates what was contained in s. 85.20, Stats., prior to the 1995 State Budget Act. Since the state share and distribution methodology are always contained in the statute, this amendment would remove the obsolete language and replace it with statutory references. The specific language would no longer be duplicated in ch. Trans 4 or in state–aid contracts, which would eliminate the necessity of updating the rule every time a change is made to s. 85.20, Stats.

PROPOSED AMENDMENT 11
COST OF SERVICES NOT IN APPLICATION

Description of objective of the amendment:

Amend s. Trans 4.07 (2) to specify that the cost of services not included in an annual application for state aid under s. 85.20, Stats., will not be eligible for funding until the following year.

Description of existing policies relevant to the amendment:

Current policy is to not allow amendments after the application has been finalized.

However, this policy has not been formally incorporated in a rule.

PROPOSED AMENDMENT 12
NEW SYSTEMS

Description of objective of the amendment:

Add a section under s. Trans 4.07 to state that any community planning to implement a new transit system would have to notify WISDOT no later than April 15th of even-numbered years in order to be eligible for aid under s. 85.20, Stats., in the upcoming biennium.

Description of existing policies relevant to the amendment:

This is a new policy for promoting stability in transit-aid levels for existing systems. It would also provide the Legislature with more accurate projections of total eligible operating expenses when determining the level of funding to set for the state-aid program for the next biennium.

PROPOSED AMENDMENT 13
REPEAL S. TRANS 4.07 (5)

Description of the objective of the amendment:

Section Trans 4.07 (5) currently requires an applicant to submit the original of its application to the appropriate transportation district office of the Department. This policy was changed several years ago to expedite the application process.

Description of existing policies relevant to the amendment:

Currently, the original application is submitted to the Department's Public Transit Section, with a copy sent to the appropriate Transportation District Office. Since this information is included in an annual application booklet, there is no need to duplicate it in the administrative rule.

PROPOSED AMENDMENT 14
MODIFY PERFORMANCE INDICATORS

Description of the objective of the amendment:

Amend s. Trans 4.09 (2) (a) to (e) to reflect the performance indicators recommended by The Transit Advisory Council in 1997.

Description of existing policies relevant to the amendment:

The Department has adopted the Transit Advisory Council's recommended set of performance indicators and is currently using these indicators in the conduct of statutorily required management performance audits.

PROPOSED AMENDMENT 15
MANAGEMENT PERFORMANCE AUDITS

Description of the objective of the amendment:

Section Trans 4.10 would be amended to specify that the Department shall conduct management performance audits of bus systems participating in the state-aid program, excluding shared-ride taxi systems.

Description of existing policies relevant to the amendment:

The Department currently does not conduct management performance audits of shared-ride taxi systems. The Department has neither the staff nor the funds required to conduct these audits, and after analyzing the potential impact, has determined that the audits would add little value, and certainly would not be cost effective.

PROPOSED AMENDMENT 16
ELIMINATION OF THE TERM "MASS TRANSIT"

Description of objective of the amendment:

Amend all sections of ch. Trans 4 containing a reference to "mass transit" by replacing the term with "urban public transit."

Description of policies relevant to the amendment:

The term "mass transit" is obsolete and misleading. The state operating assistance program funds public transit service in 60 Wisconsin communities. The majority of these systems (35) are shared-ride taxi systems operating in small communities, and most of the rest are bus systems operating in medium-sized and smaller cities. The term "urban public transit" more accurately reflects the types of systems participating in the program.

PROPOSED AMENDMENT 17
ELIMINATION OF THE TERM "SUBSIDY / SUBSIDIES"

Description of the objective of the amendment:

Amend all sections of ch. Trans 4 containing a reference to "subsidy/subsidies" by replacing the term with "payment/payments."

Description of policies relevant to the amendment:

The term "subsidy/subsidies" is obsolete and has negative connotations. The term "payment/payments" does not change the meaning, but eliminates the negative connotation.

PROPOSED AMENDMENT 18
TECHNICAL AMENDMENTS

Description of objective of the amendment:

There are a number of references in the existing rule that are no longer accurate and need to be updated.

Statutory authority for the rule:

Sections 85.16 (1), 85.20 and 227.11 (2), Stats.

Estimate of the amount of time that State employees will spend developing the rule and of other resources necessary to develop the rule:

200 person hours.

Transportation

Subject:

Ch. Trans 8 – Relating to the policies and procedures which the Department of Transportation, acting on behalf of the Governor, will use for the distribution of federal funds apportioned to the State of Wisconsin for public transit assistance to urbanized areas of under 200,000 population.

Description of policy issues:*Description of the objective of the proposed rule-making:*

Chapter Trans 8 prescribes the policies and procedures which the Department of Transportation, acting on behalf of the Governor, will use for the distribution of federal funds apportioned to the State of Wisconsin for public transit assistance to urbanized areas of under 200,000 population. The primary purpose of this rule-making is to update the rule to conform with the provisions of TEA 21, s. 85.20, Stats., and ch. Trans 4, Wis. Adm. Code. In addition, portions of the rule are being changed to reflect current Department policy.

PROPOSED AMENDMENT 1
CHANGED PROGRAM DESIGNATION

Description of objective of the amendment:

Change all references to Section 9 of the Urban Mass Transportation Act of 1964, as amended, to Section 5307.

Description of existing policies relevant to the amendment:

The section designation of all Federal Transit Administration programs was changed following passage of the Intermodal Surface Transportation Efficiency Act of 1991.

PROPOSED AMENDMENT 2
REFERENCES TO CH. TRANS 4

Description of objective of the amendment:

Change references to ch. Trans 4 to agree with numbering in the current version of ch. Trans 4.

Description of existing policies relevant to the amendment:

Chapters Trans 4 and Trans 8 are being amended simultaneously. The intent is to ensure that all cross references match.

**PROPOSED AMENDMENT 3
CAPITALIZED MAINTENANCE COSTS**

Description of objective of the amendment:

Under s. Trans 8.02, add a definition of “capitalized maintenance costs.”

Description of existing policies relevant to the amendment:

TEA 21 allows a transit system to capitalize all vehicle and facility related maintenance expenses, and fund them with an 80% federal share. However, if these expenses are capitalized, they are no longer considered as operating expenses, and may not be funded with operating assistance.

**PROPOSED AMENDMENT 4
NOTIFICATION OF FUNDING LEVELS**

Description of objective of the amendment:

Section Trans 8.03 (1) (b) currently requires WISDOT to provide each eligible recipient with projections of the amount of state and federal funds for operating assistance which will be allocated to each recipient for the next project year no later than October 1. This amendment would change the language to read “as soon as possible after October 1 and once state and federal budgeted amounts are known along with reasonable estimates of the operating assistance needs of affected transit systems.”

Description of existing policies relevant to the amendment:

Providing recipients with reasonably accurate projections of state and federal aid is dependent upon federal, state and local budget processes. Since the state budgets on a biennial basis, and the state fiscal year is July 1 through June 30, state aids are usually known prior to October 1. However, the federal government budgets on an annual basis, and the federal fiscal year is October 1 through September 30, and local governments also budget annually, and operate on a January 1 through December 31 fiscal year. Oftentimes the required federal and local budget information is not available until after October 1.

**PROPOSED AMENDMENT 5
ADA RELATED COSTS**

Description of objective of the amendment:

Amend s. Trans 8.03 (2) (a) to stipulate that capital projects undertaken to comply with the Americans with Disabilities Act are fundable at up to 90% of costs.

Description of existing policies relevant to the amendment:

The current rule is not in sync with federal regulations. This provision was included in the federal Intermodal Surface Transportation Efficiency Act of 1991.

**PROPOSED AMENDMENT 6
PRIORITY ORDER FOR FUNDING CAPITAL NEEDS**

Description of objective of the amendment:

Amend s. Trans 8.03 (2) to eliminate the mandatory priority rank order for funding capital projects if available funding in a given year is insufficient to fund all projects. The priority rank order would be replaced with the following language: “In any project year in which requests for capital assistance exceed available funds, the rank order of priorities shall be established in consultation with the transit community. Annually, the rank order shall consider age, condition, transit service needs and urgency among other factors.” The current rank order may be used, or it may be modified, until all funds available are distributed.

Description of existing policies relevant to the amendment:

The rank order currently specified in s. Trans 8.03 (2) has never been used to distribute funds. Current policy is to consult with all potential grantees to determine the most urgent needs. This will vary every year, and may be based on availability of operating assistance, age and condition of equipment to be replaced, anticipated start dates of new service, availability of local matching share and other factors.

**PROPOSED AMENDMENT 7
SECOND DISTRIBUTION OF OPERATING ASSISTANCE**

Description of objective of the amendment:

Amend s. Trans 8.03 (3) to remove the language that provides for a second distribution of operating assistance if all capital needs have been met.

Description of existing policies relevant to the amendment:

The federal transit programs have been substantially restructured since this rule has last been amended, by ISTEA in 1991 and by TEA 21 in 1998. Currently Section 5307 funds are awarded to the Governor as a block grant to be used to meet both operating assistance and capital needs of Wisconsin’s twelve urbanized areas with populations of between 50,000 and 200,000. Current policy is to provide combined state and federal operating assistance sufficient to cover 60% of operating costs and utilize the balance to fund capital projects. Any unused balance would be carried over to the next year.

**PROPOSED AMENDMENT 8
ELIMINATION OF THE TERM “MASS TRANSIT”**

Description of objective of the amendment:

Amend all sections of ch. Trans 8 containing a reference to “mass transit” by replacing the term with “public transit.”

Description of policies relevant to the amendment:

The term “mass transit” is obsolete and misleading. The state operating assistance program funds public transit service in 60 Wisconsin communities. The majority of these systems (35) are shared-ride taxi systems operating in small communities, and most of the rest are bus systems operating in medium-sized and smaller cities. The term “urban public transit” more accurately reflects the types of systems participating in the program.

**PROPOSED AMENDMENT 9
ELIMINATION OF THE TERM “SUBSIDY / SUBSIDIES”**

Description of the objective of the amendment:

Amend all sections of ch. Trans 8 containing a reference to “subsidy/subsidies” by replacing the term with “payment/payments.”

Description of policies relevant to the amendment:

The term “subsidy/subsidies” is obsolete and has negative connotations. The term “payment/payments” does not change the meaning, but eliminates the negative connotations.

**PROPOSED AMENDMENT 10
ANNUAL REVIEW**

Description of objective of the amendment:

Repeal s. Trans 8.05 which calls for the Department to review the policies and procedures established in the rule annually.

Description of existing policies relevant to the amendment:

This section adds no meaningful substance to the rule. WISDOT will continue to review the rule as federal rules and regulations change, and amend accordingly.

Statutory authority for the rule:

Sections 85.16 (1) and 227.11 (2), Stats.

Estimate of the amount of time state employees will spend developing the rule and of other resources necessary to develop the rule:

100 hours.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

Please check the Bulletin of Proceedings for further information on a particular rule.

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On July 26, 1999, the Department of Agriculture, Trade and Consumer Protection has referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides.

Agency Procedure for Promulgation

A public hearing is required and the Department will hold public hearings on this rule after the Wisconsin Legislative Council Rules Clearinghouse completes its review.

The first hearing will be held on Tuesday, August 31, 1999 at the La Petite Room, Best Western, 1616 Crestview Dr., Hudson, Wisconsin; the second hearing will be held on Wednesday, September 1, 1999 at the Main Meeting Room, Comfort Suites, 300 Division North St., Stevens Point, Wisconsin; and the third hearing will be held on Thursday, September 2, 1999 at Room Timber Wolf A, Black Wolf Lodge, 1400 Black Wolf Dr., Wisconsin Dells, Wisconsin. The hearing times and sessions at all locations are the same: from 1:00 to 4:00 p.m. for the afternoon session and 6:30 to 8:00 p.m. for the evening session.

The Division of Agricultural Resource Management is primarily responsible for promulgation of this rule.

Contact Information

If you have questions regarding this rule, you may contact:

Bruce Rheineck
Division of Agricultural Resource Management
Telephone (608) 224-4502

or

Attorney Jim Matson
Telephone (608) 224-5022

Commerce

Rule Submittal Date

On July 29, 1999, the Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The subject matter of the proposed rule affecting chs. Comm 50-64 relates to fire safety requirements in the Commercial Building Code.

Agency Procedure for Promulgation

A public hearing is required and four public hearings are scheduled for: Friday, August 27, 1999 at 11:00 a.m. in Room 105, State Office Building, 718 West Clairemont Ave., Eau Claire, Wisconsin; Monday, August 30, 1999 at 10:00 a.m. in Room 120, State Office Building, 141 N.W. Barstow St., Waukesha, Wisconsin; Wednesday, September 1, 1999 at 10:00 a.m. in Room 3B at the WHEDA Building, 201 West Washington Ave., Madison, Wisconsin; and Thursday, September 2, 1999 at 11:00 a.m. in Room 152A, State Office Building, 200 North Jefferson St., Green Bay, Wisconsin.

Contact Information

If you have questions regarding this rule, you may contact:

Duane Hubeler
Department of Commerce
Telephone (608) 266-1390

Public Instruction

Rule Submittal Date

On July 29, 1999, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends s. PI 11.24 (9) (c), deleting the requirement that a medical referral be received from a licensed physician when a child receives occupational therapy to benefit from special education.

Agency Procedure for Promulgation

Public hearings are required and will be scheduled. The Division for Learning Support: Equity and Advocacy is primarily responsible for promulgation of this rule.

Contact Information

If you have questions regarding this rule, you may contact:

Paul Halverson, Director
Special Education
Telephone (608) 266-1781

Transportation

Rule Submittal Date

On July 30, 1999, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The subject matter of the proposed rule affecting ch. Trans 276 relates to allowing the operation of double bottoms and certain other vehicles on specified highways.

Agency Procedure for Promulgation

A public hearing is required and will be held on August 26, 1999 at 10:00 a.m. in Room 144–B, Hill Farms State Office Building, 4802 Sheboygan Ave., Madison, Wisconsin.

The Division of Infrastructure Development, Bureau of Highway Operations, is the organizational unit primarily responsible for promulgation of the proposed rule.

Contact Information

If you have questions regarding this rule, you may contact:

Julie A. Johnson, Paralegal
Department of Transportation
Telephone (608) 266–8810
FAX (608) 267–6734

NOTICE SECTION

Notice of Hearing

Agriculture, Trade and Consumer Protection

[CR 99-117]

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed amendments to ch. ATPC 30, Wis. Adm. Code, relating to the use of atrazine pesticides.

Hearing Information

The hearings will be held at the times and places shown below.

August 31, 1999 Tuesday 1:00-4:00 p.m. 6:30-8:00 p.m.	La Petite Room Best Western 1616 Crestview Dr. HUDSON, WI
September 1, 1999 Wednesday 1:00-4:00 p.m. 6:30-8:00 p.m.	Main Meeting Room Comfort Suites 300 Division North St. STEVENS POINT, WI
September 2, 1999 Thursday 1:00-4:00 p.m. 6:30-8:00 p.m.	Room Timber Wolf A Black Wolf Lodge 1400 Black Wolf Dr. WISCONSIN DELLS, WI

Copies of Rule

A copy of this rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Agricultural Resource Management Division, 2811 Agriculture Drive, Box 8911, Madison, WI 53708-8911, or by calling (608) 224-4505. Copies will also be available at the public hearings.

Written Comments

The public is invited to attend the hearings and comment on the proposed rule. The Department also invites comments on the draft environmental impact statement which accompanies the rule. Following the public hearings, the hearing record will remain open until **September 17, 1999** for additional written comments.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **August 20, 1999** either by writing to Paula Noel, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, (608/224-4505) or by contacting the message relay system (TTY) at **608/224-5058**. Handicap access is available at the hearings.

Written comments will be accepted until **September 17, 1999**.

Analysis Prepared by the Dept. of Agriculture, Trade & Consumer Protection

Statutory authority: ss. 93.07(1), 94.69(9), 160.19(2), and 160.21(1)

Statutes interpreted: ss. 94.69, 160.19(2) and 160.21(1)

In order to protect Wisconsin groundwater, current rules under ch. ATPC 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards.

Based on new groundwater test data, this rule expands the number of areas in which atrazine use is prohibited.

This rule also corrects an outdated statutory reference in the department's current **aldicarb** (not atrazine) rules. Currently, under s. ATPC 30.24(5)(b), Wis. Adm. Code, the Department may grant an exemption from an aldicarb use prohibition if certain conditions are met. The current rule identifies those conditions by reference to a statute which has since been repealed. This rule eliminates the outdated statutory reference, and identifies the conditions in the rule itself. This rule does not change the substance of the current aldicarb rule.

Atrazine Prohibition Areas

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 101 designated areas, including major prohibition areas in the lower Wisconsin river valley and much of Dane and Columbia counties.

This rule repeals and recreates 1 current prohibition area to expand the area, and creates 2 new prohibition areas, resulting in a new total of 103 prohibition areas throughout the state. The rule includes maps describing each of the new and expanded prohibition areas.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface which complies with ss. ATPC 29.151(2) to (4), Wis. Adm. Code.

Fiscal Estimate

The rule will be administered by the Agricultural Resource Management (ARM) Division of the Department of Agriculture, Trade and Consumer Protection (DATCP). The following estimate is based on enlarging 1 existing prohibition area (PA), and creating 2 additional PAs.

Administration and enforcement of the proposal will involve new costs for the Department. Specialist and field investigator staff time will be needed for inspections and enforcement in the new PAs (0.1 FTE, cost approximately \$4,000). Enforcement activities will be conducted in conjunction with current compliance inspections but at increased levels to ensure compliance with the additional prohibition areas. Compliance activities will be especially important in the first few years as growers, commercial applicators, dealers, and agricultural consultants in the PAs require education to comply with the new regulations.

Soil sampling conducted in the additional PAs to determine compliance with the rules will require an estimated \$1,000 in analytical services. In addition, a public information effort will be needed to achieve a high degree of voluntary compliance with the rule. Direct costs to produce and distribute the informational materials will be \$3,000.

Total Annual Costs: \$8,000

The Department anticipates no additional costs for other state agencies. Water sampling programs within the Department of Natural Resources and local health agencies may receive short term increased interest by individuals requesting samples.

On Local Units of Government

The rule does not mandate that local government resources be expended on sample collection, rule administration or enforcement. The rule is therefore not expected to have any fiscal impact on local units of government. County agricultural agents will likely receive requests for information on provisions of the rule and on weed control strategies with reduced reliance on atrazine. This responsibility will probably be incorporated into current extension programs with no net fiscal impact.

The complete fiscal estimate is available upon request.

Initial Regulatory Flexibility Analysis

Businesses Affected:

The amendments to ATPC 30 Appendix A will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition areas contain approximately 6,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 1,500 acres of corn will be affected. This acreage would represent between 5 and 20 producers, depending on their corn acreage. These producers are small businesses, as defined by s. 227.114 (1)(a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

Reporting, Recordkeeping and Other Procedures Required for Compliance:

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10, Wis. Adm. Code.

Professional Skills Required to Comply:

The rule affects how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in the State, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past this type of assistance has been provided by University Extension personnel and farm chemical dealers. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The Department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

Notice to Dept. of Development

The Department has given notice of this proposed rule to the Wisconsin Department of Development, as required by s. 227.114(5), Stats.

Draft Environmental Impact Statement

The Department has prepared a draft environmental impact statement (EIS) for proposed 2000 amendments to rules on the use of pesticides containing atrazine. Copies are available from the Department on request and will be available at the public hearings. Comments on the EIS should be directed to the Agricultural Resource Management Division, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI, 53708 in care of Jeff Postle. Phone 608/224-4503. Written comments on the EIS will be accepted until **September 17, 1999**.

Notice of Hearings

Commerce

(Commercial Building Code

Chs. Comm 50-65)

[CR 99-120]

Notice is hereby given that pursuant to ss. 101.02 (1) and (15), 101.14 (4), and 227.17, Stats., the Department of Commerce announces that it will hold public hearings on proposed rules relating to Fire Safety Requirements in the Commercial Building Code, chapters Comm 50-64.

Hearing Information

August 27, 1999 Friday 11:00 a.m.	State Office Bldg. Room 105 718 W. Clairemont Avenue Eau Claire, WI
August 30, 1999 Monday 10:00 a.m.	State Office Bldg. Room 120 141 N.W. Barstow Street Waukesha, WI
September 1, 1999 Wednesday 10:00 a.m.	WHEDA Bldg. Room 3B 201 W. Washington Ave. Madison, WI
September 2, 1999 Thursday 11:00 a.m.	State Office Bldg. Room 152A 200 N. Jefferson Street Green Bay, WI

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **Friday, September 17, 1999**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

These hearings are held in accessible facilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

A copy of the proposed rules may be obtained without cost from Audrey Fries, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701, telephone (608) 266-9375 or (608) 264-8777 (TTY). Copies will also be available at the public hearings.

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1) and (15), and 101.14 (4)

Statutes Interpreted: ss. 101.02 (1) and (15), 101.14 (4), and 101.145

Under ss. 101.02 and 101.14, Stats., the Department of Commerce has the responsibility to supervise every public building and place of employment, including the fire safety aspects, in order to protect the life, health, safety and welfare of every employee, frequenter, tenant and firefighter. The proposed changes in this package are intended to update code requirements and adopted national standards relating to building construction, building equipment, commodity storage and isolation, fire prevention, fire detection, and fire suppression as one part of that responsibility.

The proposed rule change updates the currently adopted National Fire Protection Association (NFPA) standards in the Building and Heating, Ventilating and Air Conditioning Code, chapters Comm 50–64. Twenty four additional NFPA standards are proposed for adoption by reference. Most of these new standards relate to alternate methods of fire suppression or to storage and isolation requirements for various hazardous commodities.

Minor wording changes have been made to the text to clarify ambiguous requirements or to promote consistency within the code as well as consistency with national standards and national model codes. Several changes are proposed that will coincide with requirements in the International Building Code (IBC). Proposed requirements for fireblocking in building construction, using listed joint assemblies in fire-resistant construction, and fire isolation and suppression in commercial cooking facilities follow requirements from the IBC.

Environmental Assessment

Notice is hereby given that the Department has prepared a preliminary Environmental Assessment (EA) on the proposed rules. The preliminary recommendation is a finding of no significant impact. Copies of the preliminary EA are available from the Department on request and will be available at the public hearings. Requests for the EA and comments on the EA should be directed to:

Robert Langstroth
Department of Commerce
P.O. Box 2599
Madison, Wisconsin 53701
Telephone (608) 264–8801
or TTY (608) 264–8777

Written comments will be accepted until **Friday, September 17, 1999.**

Fiscal Estimate

There is no fiscal effect.

Initial Regulatory Flexibility Analysis

1.Types of small businesses that will be affected by the rules.

Businesses that install, test or maintain fire protection equipment will have clearer rules and up-to-date national standards to follow.

Businesses that store hazardous materials, such as compressed gases, various hazardous chemicals, rubber tires, rolled paper or explosive materials will be required to follow current national standards for the storage of those materials.

2.Reporting, bookkeeping and other procedures required for compliance with the rules.

There are no additional reporting or bookkeeping procedures to comply with these rules.

3.Types of professional skills necessary for compliance with the rules.

There are no additional professional skills needed to comply with these rules.

Notice of Hearing

Commerce
(Financial Resources for Businesses
& Communities,
Chs. Comm 105 to 128)

The Department of Commerce announces that it will hold a public hearing on the emergency rule relating to ch. Comm 111 Certified Capital Companies.

Hearing Information

August 17, 1999
Tuesday
2:00 p.m.

Conference Room 3B
201 W. Washington Ave.
Madison, WI

Interested persons are invited to appear at the hearing and present comments on the emergency rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until **August 22, 1999**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing. Written comments should be submitted to Richard Meyer (608-266-3080), Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

Analysis

Statutory Authority: ss. 560.31, 560.34 (1m) (b), and 227.24
Statutes Interpreted: ss. 560.31, 560.34 (1m) (b), and 227.24

On June 17, 1999, the Department of Commerce (Commerce) held a public hearing on proposed rules in response to 1997 Wis. Act 215. That act provides tax credits to persons that make certain investments in certified capital companies that are certified by Commerce. Legislators and persons interested in the rules testified at the hearing and requested that Commerce adopt an emergency rule that would (1) allow persons to apply for certification to become certified as capital companies, (2) allow persons to apply to make a certified capital investment in a certified capital company, and (3) set forth the operational and reporting requirements of certified capital companies required under the law. Since then, articles in the newspaper as well as business journals have pointed out the lack of venture capital in the state hinders high-tech growth and making that capital available will benefit Wisconsin as it has done in other states. This emergency rule is necessary to begin implementation of the law and to place Wisconsin in a better position to make capital available to draw high-tech industries, create new businesses, and expand existing businesses that will ultimately create new jobs and benefit all its citizens.

Contact Person

Philip Edw. Albert, Deputy Secretary, 608-267-0770

Fiscal Estimate

The 1997 Wis. Act 215, authorizes the creation of a certified capital company program and provides tax credits to persons who make certain types of investments in certified capital companies (CAPCOs). The act authorizes the Department of Commerce (Commerce) to administer the program and creates a program revenue appropriation in which fees and other monies collected for administering the program are deposited. As required by the law and rules Commerce will: (1) certify capital companies; (2) certify qualified businesses; (3) review annual reports and financial statements; (4) make written determinations regarding certified capital company distributions; (5) conduct annual compliance reviews of certified capital companies; and (6) determine and issue written notices of investment pool disqualification's.

Based on limited data, Commerce estimates it will certify approximately 16 CAPCO's and the program will generate approximately \$120,000 in program revenue from: (1) a \$7,500 application fee from a capital certified company seeking certification and (2) an annual \$5,000 certification fee.

Commerce estimates 2.0 PR positions at an annual cost of \$100,700 are required to administer the program. The costs are broken down as follows:

1.0 Financial Examiner	\$45,000
(Salary and Fringe Benefits)	
1.0 Financial Specialist	\$33,000
(Salary and Fringe Benefits)	
Supplies and Services	\$ 1,800
Rent	\$ 4,200
Department Overhead Charges	<u>\$ 16,200</u>
Total	\$100,700

No costs are anticipated by this program on local government.

Notice of Hearing

Dentistry Examining Board

[CR 99-99]

Notice is hereby given that pursuant to authority vested in the Dentistry Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 447.02 (2) (d), Stats., as created by 1997 Wis. Act 96, and interpreting s. 447.06 (2) (e) 1. and 3., Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. DE 3.04, relating to the oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a licensed dental hygienist.

Hearing Information

September 1, 1999
Wednesday
9:30 a.m.

Room 179A
1400 East Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **September 15, 1999** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 447.02 (2) (d)

Statute interpreted: s. 447.06 (2) (e) 1. and 3.

This proposed rule-making order of the Dentistry Examining Board adopts rules mandated under 1997 Wis. Act 96, respecting the oral systemic premedications and subgingival chemotherapeutic agents that may be administered by a dental hygienist upon the delegation of a dentist. Under the Act, the scope of practice of a dental hygienist is expanded to permit the administration of oral systemic premedications and subgingival chemotherapeutic agents, pursuant to a treatment plan approved by a dentist who is present in the dental facility when the medications are provided and who is available throughout the completion of the patient's appointment. The proposed rules permit a dentist to determine, in his or her professional judgment, the specific medications that may be administered to a patient by a dental hygienist.

Text of Rule

SECTION 1. DE 3.04 is created to read:

DE 3.04 Oral systemic premedications and subgingival sustained release chemotherapeutic agents. (1) "Oral systemic premedications" means antibiotics that are administered to patients prior to providing dental or dental hygiene services in order to mitigate against the risk of patients developing a bacterial infection. A dentist may delegate to a dental hygienist the administration of any oral systemic prophylactic antibiotic premedications.

(2) "Subgingival sustained release chemotherapeutic agents" means medications that are applied under the gum tissue in periodontal pockets to treat periodontal, or gum, disease.

(3) A dentist may delegate to a dental hygienist the administration of oral systemic premedications and subgingival sustained release chemotherapeutic agents to patients only if all of the following conditions are met:

- (a) The administration is performed pursuant to a treatment plan for the patient approved by a dentist.
- (b) The dentist remains on the premises in which the administration is performed and is available to the patient throughout the completion of the appointment.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$1,000.00. These rules would require the development and printing for new applications for this certification. There would also be administrative costs to process these applications. The agency estimates these costs at approximately \$1,000.00 to start this certification requirement.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the Department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Information

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

Notice of Hearing

Health & Family Services

(Medical Assistance,

Chs. HFS 101–108)

[CR 99–112]

Notice is hereby given that, pursuant to s. 49.45 (10), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of s. HFS 105.39 (4) (b) 3., relating to refresher training in cardiopulmonary resuscitation (CPR) and first aid for drivers of specialized medical vehicles (SMV's) under the Medical Assistance program, and the emergency rule now in effect on the same subject.

Hearing Information

September 1, 1999
Wednesday
From 10 a.m. to 12 noon
Room B139
State Office Building
1 West Wilson Street
MADISON, WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building, in the Monona Terrace Convention Center Parking Ramp or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

Analysis Prepared by the Department of Health and Family Services

The Department's rules for certification of specialized motor vehicle (SMV) providers under the Medical Assistance (MA) program include requirements for SMV drivers. Among current requirements is that each driver must receive training in first aid and cardiopulmonary resuscitation (CPR) before driving a vehicle or serving as an attendant and must receive refresher training in first aid every 2 years and refresher training in CPR annually. The specific requirements for refresher training date from December 1, 1994. When revising its rules for SMV providers earlier in 1994 the Department proposed to require refresher training every 2 years for both first aid and CPR, but at the public hearings on the proposed rules 5 SMV providers said the CPR refresher training should take place annually and the Department agreed and made that its requirement.

Although the American Red Cross CPR training and certification that the person is trained continue to be annual, the equivalent American Heart Association CPR training and certification (the American Heart Association prefers "recognition" to "certification") is now every 2 years. This means that to comply with the Department's current MA rule for SMV drivers, s. HFS 105.39 (4) (b) 3., drivers who receive their training from the American Heart Association must repeat the training each year. That is unnecessary for maintenance of American Heart Association certification (recognition) and the time and expense involved is a burden on SMV providers and drivers. The Department is modifying the rule through this order to simply require that drivers maintain CPR certification.

The Department through this order is also changing the requirement for refresher training in first aid from every 2 years to at least every 3 years. That is because the American Red Cross certification in first aid is now for 3 years. A requirement for more frequent refresher training in first aid is a burden in time and expense involved for SMV providers and drivers.

Section HFS 105.39 (4) (b) 3. was amended by emergency order effective July 3, 1999. This permanent order makes the identical changes in the rule.

Text of Rule

SECTION 1. HFS 105.39 (4) (b) 3. is amended to read:

HFS 105.39 (4) (b) 3. Each driver shall receive refresher training in first aid at least every 2 3 years and refresher training in CPR annually shall maintain CPR certification. A driver who is an emergency medical technician licensed under ch. HFS 110, 111 or 112, a licensed practical nurse, a registered nurse or a physician assistant shall be considered to have met this requirement these requirements by completion of continuing education which includes first aid and CPR.

Contact Person

To find out more about the hearing, write, phone or E-mail:

Alfred Matano
Division of Health Care Financing
P.O. Box 309, Room 350
Madison, WI 53701–0309
(608) 267–6848 or,
if you are hearing impaired,
(608) 266–1511 (TTY)
matana@dhfs.state.wi.us

If you are hearing or visually impaired, do not speak English, or have other personal circumstances which might make communication at a hearing difficult and if you, therefore, require an interpreter or a non-English, large-print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rules received by U.S. mail at the above address no later than **September 8, 1999** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

These amendments to the Department's rules for certification of specialized medical vehicle (SMV) providers under the Medical Assistance (MA) program will not affect the expenditures or revenues of state government or local governments.

Section HFS 105.39 (4) (b) 3. currently requires SMV drivers, before driving a vehicle or serving as an attendant in a vehicle, to have basic Red Cross or equivalent training in first aid and cardiopulmonary resuscitation (CPR), and to have refresher training in first aid every 2 years and refresher training in CPR annually.

This order changes the refresher training requirement for first aid to at least every 3 years because the American Red Cross certification in first aid has been changed from 2 years to 3 years. The order changes the CPR refresher training requirement to a requirement that each driver simply maintain CPR certification since the American Heart Association certification ("recognition") in CPR is now for 2 years.

The rule changes will save time and money for some SMV providers whose drivers under current rules must take more frequent training than necessary to maintain certification in CPR or first aid.

In April 1999 there were 191 MA-certified SMV providers. None of them were operated by state government or local governments.

Initial Regulatory Flexibility Analysis

Nearly all of the 191 MA-certified SMV providers are small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. Many of the SMV providers and their drivers will be affected by the amendment of s. HFS 105.39 (4) (b) 3. The amendments change the frequency of required SMV driver refresher training in first aid from every 2 years to at least every 3 years and substitute having the drivers get the refresher training in CPR that they need in order to maintain certification for the requirement that they receive refresher training in CPR annually. Because of this updating of s. HFS 105.39 (4) (b) 3., some SMV providers are likely to realize savings in training costs and providing coverage for drivers taking training because required driver refresher training in first aid and CPR will not be as frequent as it was.

Notice of Hearings

Health & Social Services

(Medical Assistance,

Chs. HFS 101–108)

[CR 99–106]

Notice is hereby given that, pursuant to ss. 49.45 (10) and 49.665 (3), (4) and (5), Stats., the Department of Health and Family Services will hold public hearings to consider the amendment of chs. HFS 101, 102, 103 and 108, Wis. Adm. Code, relating to operation of the BadgerCare health insurance program, and the emergency rules now in effect on the same subject.

Hearing Information

August 26, 1999 Thursday From 10 a.m. to 3 p.m.	Room 40 State Office Building 819 N. 6th Street MILWAUKEE, WI
August 27, 1999 Friday From 11 a.m. to 3 p.m.	Room 152-A State Office Building 200 N. Jefferson Street GREEN BAY, WI
August 30, 1999 Monday From 11 a.m. to 3 p.m.	Room 123 State Office Building 610 Gibson St. EAU CLAIRE, WI
August 31, 1999 Tuesday From 10 a.m. to 3 p.m.	Room 751 State Office Building 1 West Wilson Street MADISON, WI

All hearing sites are fully accessible to people with disabilities. For the Madison hearing, parking for people with disabilities is available in the parking lot behind the building, in the Monona Terrace Convention Center Parking Ramp or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

Analysis Prepared by the Department of Health and Family Services

This order creates rules relating to how a new program called BadgerCare, established under s. 49.665, Stats., will work. Under BadgerCare, families with incomes up to 185% of the federal poverty level, but not low enough to be eligible for regular Medical Assistance (MA) coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs. This order incorporates the rules for operation of BadgerCare into chs. HFS 101 to 108, the Department's rules for operation of the MA Program.

Benefits under BadgerCare will be identical to the comprehensive package of benefits provided by MA. The existing Wisconsin MA HMO managed care system, including mechanisms for assuring the quality of services, improving health outcomes and settling grievances, will be used also for BadgerCare.

The rules included in this order modify chs. HFS 101 to 108 to accommodate BadgerCare and in the process provide more specificity than s. 49.665, Stats., about the nonfinancial and financial conditions of eligibility for BadgerCare; state who is included in a BadgerCare group and whose income is taken into consideration when determining the eligibility of a BadgerCare group; expand on statutory conditions for continuing to be eligible for BadgerCare; require a BadgerCare group with monthly income above 150% of the federal poverty level to contribute toward the cost of the health care coverage; and set forth how the Department, as an alternative to providing MA coverage, will go about purchasing family coverage offered by the employer of a member of a family eligible for BadgerCare if the Department determines that purchasing that coverage would not cost more than providing MA coverage.

The Department obtained approval for BadgerCare from the federal Health Care Financing Administration (HCFA) on January 22, 1999, effective July 1, 1999, and on July 1, 1999, published emergency rules for the operation of BadgerCare. These are the identical permanent rules to replace the emergency rules.

Contact Person

To find out more about the hearings or to request a copy of the proposed rules, write, phone or E-mail:

Alfred Matano
Division of Health Care Financing
P.O. Box 309, Room 350
Madison, WI 53701-0309
(608) 267-6848 or,
if you are hearing impaired,
(608) 266-1511 (TTY)
matana@dhfs.state.wi.us

If you are hearing or visually impaired, do not speak English, or have other personal circumstances which might make communication at a hearing difficult and if you, therefore, require an interpreter or a non-English, large-print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rules received by U.S. mail at the above address no later than **September 3, 1999** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

This order creates rules that specify how the BadgerCare Program established under s. 49.665, Stats., will work. Under BadgerCare, families with incomes below 185% of the federal poverty level, but not low enough to be eligible for regular Medical Assistance coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs.

The order incorporates the rules for operation of BadgerCare into the Department's current rules for operation of the Medical Assistance (MA) program since BadgerCare benefits will be the same as Medical Assistance benefits and provider certification requirements and provider rights and responsibilities will also be the same.

The order modifies four chapters of the Medical Assistance rules to accommodate BadgerCare and in the process provides more specificity than the program statute about nonfinancial and financial conditions of eligibility for BadgerCare; states who is included in a BadgerCare group and whose income is taken into consideration when determining the eligibility of a BadgerCare group; expands on statutory conditions for continuing eligible for BadgerCare; exempts a BadgerCare group with monthly income at or below 150% of the federal poverty level from being obliged to contribute toward the cost of the health care coverage; and sets forth how the Department will go about purchasing family coverage offered by the employer of a member of a family eligible for BadgerCare if the Department determines that purchasing that coverage would not cost more than providing BadgerCare coverage.

These rules will not affect the expenditures or revenues of state government or local governments. Costs of implementing BadgerCare were taken into consideration by the Legislature during development of the 1999-01 biennial budget.

Initial Regulatory Flexibility Analysis

The rules for the BadgerCare program apply to the Department, to families that are applicants or recipients of the health care coverage provided by BadgerCare and to county social service or human service departments that take applications and determine eligibility for BadgerCare. The rules will not directly affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

Notice of Hearing **Health & Family Services** **(Health, Chs. HFS 110-)** **[CR 99-113]**

Notice is hereby given that, pursuant to s. 149.143(2)(a)2.,3., and 4. and (3), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of ss. HFS 119.07(6)(b)(intro.) and Medicare Plan tables and (c) 2. (intro.) and tables and 119.15, Wis. Adm. Code, relating to operation of the Health Insurance Risk-Sharing Plan (HIRSP), and the emergency rules now in effect on the same subject.

Hearing Information

September 9, 1999	Conf. Rm. inside Rm. 218
Thursday	State Office Building
Beginning at 1:00 p.m.	1 West Wilson Street
	MADISON, WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building, in the Monona Terrace Convention Center Parking Ramp or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,291 policies in effect on March 31, 1999 were of the Plan 2 type.

The Department through this order is amending two sections of the HIRSP program administrative rules:

1. It is updating HIRSP Plan 2 premium rates in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule and the rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP. There are separate sets of tables in ch. HFS 119 that show unsubsidized and subsidized Plan 2 premium rates. Both sets of tables are being updated. The Plan 2 premium rates need to be increased to cover increased costs of treatment for individuals enrolled under Plan 2. Premium rates for Plan 2 increase by about 18%.

2. It is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a)3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and collected health care provider contributions with the statutorily required funding formula. The result of the reconciliation process for calendar year 1998 indicated that insurance assessments collected were greater than 20% of costs (net of the GPR contribution from appropriation s. 20.435(5)(af), Stats.) required of insurers. As a result, the insurer assessments for the time period beginning July 1, 1999 are reduced in order to offset the overpayment for 1998. The reconciliation process also showed that an insufficient amount was collected from health care providers for 1998. Therefore, the adjustments to the provider payment rates for the time period beginning July 1, 1999 are increased in order to recoup the provider contributions that were not collected for 1998.

Identical emergency rules were published to take effect on July 1, 1999.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write or phone:

Randy McElhose
Division of Health Care Financing
P.O. Box 309, Room 265
Madison, WI 53701-0309
(608) 267-7127 or,
if you are hearing impaired,
(608) 266-1511 (TTY)

If you are hearing or visually impaired, do not speak English, or have other personal circumstances which might make communication at the hearing difficult and if you, therefore, require an interpreter, or a non-English, large-print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rule received at the above address no later than **September 16, 1999** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

This order updates the Health Insurance Risk-Sharing Plan (HIRSP) premium rates effective July 1, 1999 for HIRSP policies that provide supplemental health insurance coverage for persons eligible under Medicare, and adjusts total HIRSP insurer assessments and provider payment rates for the 12-month period beginning July 1, 1999. This is being done in order to cover Plan costs.

The rule changes will not, by themselves, affect the expenditures or revenues of state government or local governments. They adjust premiums as permitted under the program statute to help offset increased program costs. The rule changes also adjust the insurer assessments and provider payment rates, in accordance with a statute-specified methodology, to offset program costs. There is no local government involvement in the administration of HIRSP.

Initial Regulatory Flexibility Analysis

The rule changes will affect Plan 2 policyholders, the Department and the Department's fiscal agent. They will not affect small businesses as "small business" is defined in s. 227.114(1)(a), Stats. Although the program statutes and rules provide for assessment of insurers to help finance the Health Insurance Risk-Sharing Plan (HIRSP), no assessed insurer is a small business as defined in s. 227.114(1)(a), Stats. Moreover, s. 149.143, Stats., prescribes how the amount of an insurer's assessment to help finance HIRSP is to be determined and, similarly, how the health care provider payment rate is to be calculated.

Notice of Hearing *Public Instruction* *[CR 99-103]*

Notice is hereby given that pursuant to ss. 121.14 (1) and 227.11 (2) (a), Stats., and interpreting ss. 118.04, 121.004 (8), and 121.14, Stats., the department of public instruction will hold a public hearing as follows to consider the creation of Chapter PI 17, relating to summer school programs. The hearing will be held as follows:

Hearing Information

September 9, 1999	Conference Room
Thursday	CESA 6
6:00 – 8:00 p.m.	2300 State Road 44
	Oshkosh

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access the hearing site, please call Larry Allen, Director, Education Options Team, at (608) 267-2402 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Person

A copy of the proposed rule and the fiscal estimate may be obtained by writing to:

Lori Slauson
Administrative Rules & Federal Grants Coordinator
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **September 15, 1999**, will be given the same consideration as testimony presented at the hearing.

Analysis by the Department of Public Instruction

1997 Wis. Act 240 specifies that state aid shall be paid to each district or county handicapped children's education board only for those academic summer classes or laboratory periods that are for necessary academic purposes, as defined by the state superintendent by rule.

In accordance with the Act, the proposed rules define academic purposes as summer school learning experiences that are related or similar to instruction that is offered during the rest of the school year or for which credit toward graduation is given. The proposed rules give examples of approvable and nonapprovable summer school classes.

The rules also specify:

- That a school district may operate a summer school program in cooperation with a CESA or another school district under a 66:30 agreement.
- That a summer school program report must be submitted annually to the department for approval.
- How summer school aid is to be calculated.
- What fees may or may not be charged as part of a summer school program.

Fiscal Estimate

In accordance with 1997 Wis. Act 240, the proposed rules define academic purposes as summer school learning experiences that are related or similar to instruction that is offered during the rest of the school year or for which credit toward graduation is given. The proposed rules give examples of approvable and nonapprovable summer school classes.

Because the proposed rules codify current practice, there will be no state or local fiscal effect.

Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Notice of Hearing

Transportation

[CR 99-119]

Notice is hereby given that pursuant to ss. 85.16 (1) and 348.07(4), Stats., interpreting s. 348.07 (4), Stats., the Department of Transportation will hold a public hearing at the time and place indicated below to consider the amendment of ch. Trans 276, Wis. Adm. Code, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Hearing Information

August 26, 1999
Thursday
10:00 a.m.

Room 144-B
Hill Farms State Trans. Bldg.
4802 Sheboygan Ave.
MADISON, WI

The public record on this proposed rule-making will be held open until close of business, **September 3, 1999**, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to Ashwani K. Sharma, Traffic Operations Engineer, Bureau of Highway Operations, Room 501, P.O. Box 7986, Madison, Wisconsin, 53707-7986.

Analysis Prepared by the Wis. Dept. of Transportation

Statutory authority: ss. 85.16 (1) and 348.07 (4)

Statute interpreted: s. 348.07 (4)

General Summary of Proposed Rule. This proposed rule amends Trans 276.07 (4), (12) and (17), Wisconsin Administrative Code, to add three segments of highway to the designated highway system established under s. 348.07 (4), Stats. (The proposed rule text often achieves these objectives by consolidating individual segments into contiguous segments with new end points. In order to determine the actual highway segment added, it is necessary to compare the combined old designations with the combined new designation.) The actual highway segments that this proposed rule adds to the designated highway system are:

<u>Hwy.</u>	<u>From</u>	<u>To</u>
USH 18	USH 12 in Cambridge	STH 89 W. of Jefferson
STH 59	STH 26 in Milton	USH 12 in Whitewater
STH 89	STH 26 in Fort Atkinson	IH-94 in Lake Mills

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, double bottoms and the vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit: A single vehicle with an overall length in excess of 40 feet (45-foot buses are allowed on the National Network and Interstate system by Federal law. Section 4006 (b) of the Intermodal Surface Transportation Efficiency Act of 1991.), a combination of vehicles with an overall length in excess of 65 feet, a semitrailer longer than 48 feet, an automobile haulway longer than 66 feet plus allowed overhangs, or a double bottom. Certain exceptions are provided under s. 348.07 (2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

The effect of this proposed rule will be to extend the provisions of ss. 348.07 (2) (f), (fm), (gm) and (gr), and 348.08 (1) (e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the federal National Network in Wisconsin will also be allowed to operate on the newly-designated highways. Specifically, this means there will be no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulway on the affected highway segments. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulway. Double bottoms will be allowed to operate on the affected highway segments provided neither trailer is longer than 28 feet, 6 inches. Semitrailers up to 53 feet long may also be operated on these highway segments provided the kingpin to rear axle distance does not exceed 43 feet. This distance is measured from the kingpin to the center of the rear axle or, if the semitrailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semitrailers, including semitrailers which are part of an automobile haulway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 5 miles or less from the designated highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

Fiscal Estimate

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

Initial Regulatory Flexibility Analysis

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Copies of Rule and Contact Information

Copies of this proposed rule are available without cost upon request to the office of the State Traffic Engineer, P. O. Box 7986, Room 501, Madison, Wisconsin, 53707-7986, telephone (608) 266-1273. For questions about this rule making, please call Ashwani Sharma, Traffic Operations Engineer at (608) 266-1273. Alternate formats of the proposed rule will be provided to individuals at their request.

***NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF EACH HOUSE OF THE LEGISLATURE,
UNDER S. 227.19, STATS.***

Please check the Bulletin of Proceedings for further information on a particular rule.

Commerce (CR 99-7):

Chs. Comm 2, 18, 64 and 69 – Relating to elevators and mechanical lifting devices.

Geologists, Hydrologists and Soil Scientists Examining Board (CR 99-88):

Chs. GHSS 1 to 5 – Relating to the licensure and regulation of professional geologists, hydrologists and soil scientists.

Gaming, Division of (CR 99-69):

Ch. WGC 3 – Relating to contested case hearings arising out of the regulatory activities of the Division of Gaming.

Natural Resources (CR 98-197):

Ch. NR 200 – Relating to applications for discharge permits and water quality standards variances.

Natural Resources (CR 99-21):

Chs. NR 400, 409, 439 and 484 – Relating to incorporating federal nitrogen oxides (NO_x) emission requirements into the Department's air pollution control program.

Natural Resources (CR 99-46):

S. NR 485.04 – Relating to emission limitations for motor vehicles.

Natural Resources (CR 99-84):

SS. NR 46.15 and 46.30 – Relating to administration of the Forest Crop Law and the Managed Forest Law.

Revenue (CR 97-128):

SS. Tax 11.03 and 11.11 – Relating to schools and related organizations, and industrial and governmental waste treatment facilities.

Revenue (CR 99-76):

S. Tax 11.51 – Relating to taxable and exempt sales by grocers.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266–7275 for updated information on the effective dates for the listed rules.

Chiropractic Examining Board (CR 98–192):

An order affecting chs. Chir 1 to 4 and 7 and ss. Chir 6.02 and 9.04, relating to definitions, applications, examinations, temporary permits and renewal.

Effective 10–01–99.

Commerce (CR 97–117):

An order creating ch. Comm 1, relating to environmental analysis and review procedures for Department actions.

Effective 10–01–99.

Elections Board (CR 99–77):

An order amending s. El Bd 6.05, relating to filing campaign finance reports by electronic transmission.

Effective 09–01–99.

Insurance, Commissioner of (CR 99–70):

An order affecting ss. Ins 17.01, 17.275 and 17.28, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1999, to affirm open records law and exceptions apply to fund records, and to impose a late fee on insurers and self-insurers who are late in filing certificates of insurance.

Effective 10–01–99.

Natural Resources (CR 98–179):

An order creating s. NR 10.40 (5), relating to disabled turkey hunts.

Effective 09–01–99.

Public Service Commission (CR 98–156):

An order creating ch. PSC 186, relating to standards for water or sewer service in mobile home parks.

Effective 09–01–99.

Revenue (CR 99–11):

An order affecting ss. Tax 11.14 and 11.53, relating to sales and use tax exemption certificates and the sales and use tax treatment of temporary events.

Effective 09–01–99.

Revenue (CR 99–26):

An order affecting ss. Tax 11.26, 11.32, 11.41 and 11.83, relating to the sales and use tax treatment of gross receipts and sales price, manufacturing exemption and motor vehicles.

Effective 09–01–99.

Revenue (CR 99–62):

An order affecting s. Tax 11.33 (4) (a) and (g), relating to auction sales of personal farm property or household goods, and exempt purchases for resale by nonprofit organizations.

Effective 09–01–99.

Workforce Development (CR 98–201):

An order creating ch. DWD 14, relating to the administration of an electronic benefit transfer (EBT) system for the delivery of food stamp benefits.

Effective 09–01–99.

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